

REMARKS

The present Amendment is in response to the Office Action mailed March 3, 2008. Claims 8-11, 23, and 31 are cancelled and claims 1, 5, 7, 14, 21-22, and 27 are amended. Claims 1-7, 12-22, 24-30 remain pending in view of the above amendments.

Applicant notes that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

Applicant also notes that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

Claim Objections

The Office Action object to claim 1 in that the word "with" should be inserted between "associated" and "the" in claim 1. Applicant has amended claim 1 as required by the Examiner. Claim 23 has been cancelled, rendering the claim objection moot.

Rejection Under 35 U.S.C. § 103

The Office Action rejected claims 1-7, 14, 16-19, 23-25, 27, and 28 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,389,432 (*Pothapragada*). Applicants traverse the Examiner's rejection on the grounds that the reference fails to teach or suggest each and every element of the claims rejected under § 102.

Claim 1 is directed to a data storage system that selects storage nodes to server data storage access requests. Claim 1 recites that a data storage access request is associated with performance criteria that define storage characteristics that are desired for the data to be stored. Claim 1 then recites that the storage nodes selected to server the data storage requests are those whose first and second contexts satisfy the performance criteria. Claim 1 has been amended to clarify that the first contexts are related to at least the physical location of the storage node while the second contexts are related to attributes of the storage node itself.

In other words, claim 1 has been amended to clarify that the selection of storage nodes to serve data storage requests is made based on both (i) contexts of the physical location of the storage node and (ii) contexts of the attributes of the storage node itself. Claim 1 as amended clarifies the distinction between first contexts, which are related to at least a physical location of the node, and second context, which are related at least to attributes of each storage node itself.

Advantageously, storage access requests can be served by considering contexts that are not related to the storage node itself and that can change independently of the storage node. By way of example node, an impending hurricane may impact a particular storage node, and embodiments of the invention, which consider first contexts that are related to the physical location, can proactively respond to this hurricane. In contrast, the cited art fails to teach or suggest the elements of the pending claims. In other words, there is no teaching or suggestion that a SAN that is a high-speed subnet or that is attached to a plurality of data storage devices, as taught by *Pothapragada*, can respond to first contexts that are associated to at least a physical location of the storage nodes as recited in claim 1.

The Office Action suggests that *Pothapragada* teaches contexts including a political context, an economic context, a geographical context or a network topological context. *Citing* to col. 3, ll. 66 to col. 4, l. 14. While this section of *Pothapragada* discloses a system that may have a plurality of SANs and that each of the SANs is a high-speed subnet that establishes a direct connection between heterogeneous storage resources and servers, there is no teaching or suggestion of, as recited in claim 1, both first contexts and second contexts.

More specifically, assuming for argument only that *Pothapragada* teaches a network topological context related to each storage node, this section of *Pothapragada* (col. 3, ll. 66 to col. 4, l. 14) fails to teach or suggest first contexts including a political context, an economic context, and a geographic context that are related to at least a physical location of each storage node.

The amendment to claim 1 clarifies that the contexts in amended claim 1 include both first contexts and second contexts. Assuming, for argument only, that *Pothapragada* discloses second contexts related to at least attributes of each storage node, *Pothapragada* fails to teach or suggest first contexts, including political, economic, and geographic contexts, related to at least a physical location of each storage node. Disclosing a plurality of SANs that each have a high-speed subnet or that are attached to a plurality of data storage devices and servers (see col. 4, lls. 7-10), fails to teach or suggest first contexts that are related to at least the physical location of each storage node as recited in claim 1. In other words, a SAN that is attached to a plurality of data storage devices or that is linked using a suitable router fails to teach or suggest first contexts that are related to a physical location of the storage node.

There is further no teaching or suggestion that first contexts are used in selecting a storage node as recited in claim 1.

Claim 1 as amended to clarifies that the selection of storage nodes is based on first contexts and second contexts that together satisfy performance criteria of the data storage access requests. As recited in claim 1, the first contexts and the second contexts are used to discriminate differences between storage nodes and select the storage nodes to server the at least one data storage access request.

Pothapragada, in contrast, fails to teach or suggest that both first contexts related to the physical location and second contexts related to attributes of the storage node are used to identify and select the storage nodes to server a data storage access request. The networked computer system 10 identified and cited by the Examiner fails to teach or suggest these elements of claim 1, among others.

As a result, *Pothapragada* fails to teach or suggest first contexts (including a political context, an economic context, and a geographic context) and second contexts (including a network topological context). *Pothapragada* further fails to teach or suggest first contexts that are used to select the storage nodes that are used to server the data storage access requests.

For at least these reasons, Applicant respectfully submits that claim 1 is patentable over the cited art. Claims 14 and 27 have at least some generally elements and are patentable for at least the same reasons. The dependent claims rejected under section 102 are patentable for at least the same reasons.

Rejections Under § 103

The Office Action rejected claim 12 as unpatentable over *Pothapragada* in view of U.S. Patent No. 5,794,254 (*McClain*). Claim 13 was rejected over *Pothapragada* in view of U.S. Patent No. 5,931,947 (*Burns*). Claims 15 and 26 were rejected over *Pothapragada* in view of U.S. Patent No. 5,987,506 (*Carter*). Claims 20-22 were rejected over *Pothapragada* in view of Applicant's Admitted Prior Art (AAPA). Claims 29-30 were rejected over *Pothapragada*. Applicant traverses.

Because claims 1, 14 and 27 are patentable as discussed herein and because the other references cited in the Office Action have not been shown to remedy the deficiencies of *Pothapragada*, Applicant respectfully submits that the claims rejected under § 103 are patentable over the applied art.

Conclusion

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 4th day of August, 2008.

Respectfully submitted,

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